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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 10554

JUN 17 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of the Cable
Television Consumer Protection
and Competition Act of 1992

MM Docket No. 92-259

To: The Commission - MAIL STOP 1170

COMMENTS IN SUPPORT OF PETITION FOR RECONSIDERATION

1. The Community Broadcasters Association ("CBA") hereby submits these comments in support of the Petition for Reconsideration ("Petition") in the above-captioned proceeding filed by Moran Communications, Inc. ("Moran") on April 29, 1993. The Petition should be granted because the underlying purpose of must-carry for low power television ("LPTV") stations is to bring local informational programming to cable television subscribers, so application of the must-carry rule in a manner which defeats that purpose is contrary to the intent of Congress and the public interest.

2. CBA is a trade association representing the nation's LPTV stations. It regularly participates in legislative and administrative proceedings to keep the Commission informed about the activities of the LPTV industry and to urge regulatory reforms to help the LPTV industry grow, prosper, and better serve the public.

3. Moran focuses on an important anomaly in the must-carry rule which clearly requires remedial action by the Commission if the intent of Congress is to be fulfilled. The rule as it now

Protection and Competition Act of 1992 (the "Act") by affording LPTV stations must-carry rights only if a stringent set of conditions is met, including that there be no full power TV station licensed to any community in the county served by the cable system and that the LPTV station provide local news and informational programming not available from distant full power stations. It is clear from the Act that Congress intended that all cable subscribers have local news and informational broadcast programming available if possible; and if there is no full power station to provide that local programming, then cable subscribers should have access to local LPTV service.^{1/} But where the only full power station in the county is a satellite station acting as a pure repeater of a distant station, the local station does not provide any local information programming at all; and in that situation, there is no way that the intent of Congress can be fulfilled except by carriage of the LPTV station. Thus Moran requests that where the only full power station in the county is a satellite repeater, it be disregarded for purposes of determining whether any local LPTV stations have must-carry rights.

4. Moran's petition both furthers the intent of Congress and makes eminent good sense. If the idea is to provide local news and informational programming to as many cable subscribers as possible, neither the Act nor the Rule should be applied in a manner that defeats that intent. Otherwise, the private

^{1/} See footnote 2 of Moran's Petition.

incentives created by the Act and Rule will not achieve their intended public interest result: Full power stations will be able to keep LPTV stations off cable systems by establishing satellite repeaters with no local service at minimal cost, and LPTV stations near those stations will lose the incentive they now have to present local news and informational programming to earn cable must-carry rights.

5. The Act specifically excludes "passive repeaters" from the definition of "local commercial television station."^{2/} Congress intentionally gave less to repeaters than to originating stations in terms of must-carry rights. The Congressional recognition of the lesser value of repeaters must be incorporated into the must-carry rule as well if the public interest is to be served.^{3/}

6. CBA thus support's Moran's Petition and urges that the presence of a full power station in a cable system's county should be disregarded in determining the must-carry rights of an LPTV station under all the other aspects of the must-carry rule

^{2/} Section 614(h)(1)(b)(i).

^{3/} CBA is not arguing that satellite repeater full-power stations should not have whatever must-carry rights may accrue to them, or that state network noncommercial television stations (as in the example cited by Moran) should be displaced from cable systems to make room for LPTV stations. Noncommercial television service of all forms is valuable to the public. CBA's only point is that where there is room for both a satellite repeater (whether commercial or noncommercial) and an LPTV station on a cable system, the LPTV station should not be deprived of must-carry rights it would otherwise have under all the other terms and conditions of the Rule simply on account of the presence of a satellite repeater station in the county.

where the full power station does not originate a meaningful amount of local news and informational programming.

Respectfully submitted,

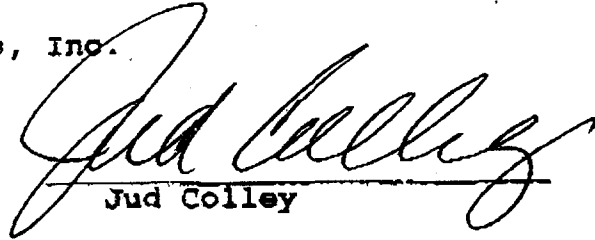
COMMUNITY BROADCASTERS
ASSOCIATION

A handwritten signature in cursive script, appearing to read "Ned Miller", is written over the typed name of the Community Broadcasters Association.

CERTIFICATE OF SERVICE

I, Jud Colley, do hereby certify that I have, this 17th day of June, 1993, caused to be sent by first class United States mail, postage prepaid, copies of the foregoing "Comments in Support of Petition for Reconsideration to the following:

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Jud Colley